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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of
DISPATCHED BY

DA 93-476

National Exchange Carrier Association)	CC Docket No. 93-123
)	
Revisions to Tariff F.C.C. No. 5)	Transmittal Nos. 518, 527, 530
)	
Universal Service Fund and)	
Lifeline Assistance Rates)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: April 20, 1993; Released: April 23, 1993

By the Chief, Common Carrier Bureau:

I. INTRODUCTION AND BACKGROUND

1. On February 5, 1993, the Common Carrier Bureau released an order initiating an investigation into the lawfulness of the Universal Service Fund (USF) rate increase filed by the National Exchange Carrier Association, Inc. (NECA) in Transmittal Nos. 518 and 527.¹ The USF program was established by the Commission to promote affordable telephone service among high cost local exchange carriers (LECs).² In Transmittal 518, NECA proposed an increase of \$60 million above the current six-month USF revenue requirement of \$309 million. Transmittal 527 revised the increase downward to \$58.5 million, reflecting corrections made by some local exchange carriers.³ NECA's proposed USF rate was opposed by American Telephone and Telegraph Company (AT&T) and MCI Telecommunications Corporation (MCI), who both argued that the USF revenue

¹National Exchange Carrier Association, Transmittal Nos. 518, 527, 530, Order, DA 93-136, released February 5, 1993 (Com.Car.Bur.) (Suspension Order). We had previously allowed unopposed portions of the transmittal to take effect on January 1, 1993, i.e., the Lifeline Assistance rate, and that portion of the USF increase pertaining to the final step of an eight-year transitional phase-in of the USF expense adjustment based on the existing revenue requirement. Special Permission No. 92-995, granted December 30, 1992. (See, Letter from G.J. Vogt, Chief, Tariff Division, to Antonio Yanez, Executive Director, NECA, dated Dec. 30, 1992.)

²NECA collects the USF rate from the largest interexchange carriers (IXCs) on the basis of each IXC's total number of presubscribed lines. NECA then distributes these funds to LECs whose average loop costs exceed the national average by a certain margin.

³The LEC corrections were made in response to Responsible Accounting Officer Letter No. 21, Classification of Remote Central Office Equipment for Accounting Purposes, DA 92-1091 (Chief, Accounting and Audits Div. Com. Car. Bur. rel. Aug. 7, 1992), revised, DA 92-1225 (Sept. 8, 1992).

requirement is artificially inflated.⁴ The Bureau concluded that based on our review of the transmittals, the concerns raised by petitioners, and NECA's response, the transmittals may contain unreasonably high rates. We therefore

following information:⁸

- (a) Provide the most current version of USF data, in the same detail as data submitted to the Industry Analysis Division in NECA's October 1, 1992 filing of 1991 study results, for each of the years 1989, 1990 and 1991.⁹
- (b) List and describe the types of adjustments made to the USF revenue requirement, for example, quarterly, resizing and others.
- (c) Explain the conditions under which NECA recalculates the national average loop cost for purposes of resizing, separately describing those conditions resulting in changed USF payout only to revising companies from those resulting in potential changes to all companies.
- (d) Provide all written internal procedures used to initiate new payouts due to resizing, for all companies based on a revision submitted by a single company.
- (e) For each situation listed in (c), explain the legal authority upon which NECA relies to determine whether to recalculate the national average loop cost for resizing purposes.
- (f) Describe the legal and/or practical distinctions which justify different procedures between NECA's common line pool, where revisions to historical data result in adjusted payouts for many companies, and resizing of the USF fund.
- (g) For the USF data years 1984 through 1991, list the total dollar amount, if any, that the USF would have changed if the national average loop cost had been recalculated each time a company revised its data.¹⁰ Include amounts related only to resizing. List the dollar amounts for each year, by company.¹¹
- (h) Describe in detail any limits on the number of years NECA keeps books of account open for purposes of resizing. Describe whether NECA distinguishes among types of companies in determining which years' data should be used for resizing, and if so, the characteristics by which companies are treated differently.

⁸In responding to questions in this order, NECA should include references to any relevant documents, including, but not limited to, internal procedure manuals, internal records required by those procedures, and contracts with carriers.

⁹Please submit this information, in Lotus 1-2-3, Release 3.1 format, on either 5-and-1/4 or 3-and-1/2 inch high density floppy disk.

¹⁰Please provide this information in the chart format contained in the Letter from John A. Ricker, NECA, to Mark Uretsky, FCC (January 11, 1993).

¹¹In addition to the paper copies, please submit one copy of this chart in Lotus 1-2-3, as described in note 9, supra.

(i) Describe, both generally and in particular with respect to allocations to Category 4.13, how NECA detects errors made by reporting companies and what actions it takes to correct those errors. Describe the obligation NECA's procedures and the Commission's Rules create for companies to report to NECA accounting errors and corrections thereto, for companies that receive USF funds and those that do not. Explain any effect on the USF revenue requirement caused by such errors and their correction, as reflected in Transmittals 518 and 527.

B. If the Bureau requires NECA to revise its procedures with respect to the national average loop cost as a result of this investigation, should this ruling be applied retroactively, and if so, how far back?

III. PROCEDURAL MATTERS

7. This investigation will be conducted as a notice and comment proceeding. CC Docket No. 93-123 has been assigned for this purpose. NECA shall file its direct case no later than May 26, 1993. The direct case must present NECA's position with respect to the issues described in this Order. Pleadings responding to the direct case may be filed no later than June 23, 1993, and must be captioned "Opposition to Direct Case" or "Comments on Direct Case." NECA may file a "Rebuttal" to oppositions or comments no later than July 7, 1993.

8. An original and seven copies of all pleadings must be filed with the Secretary of the Commission. In addition, one copy must be delivered to the Commission's commercial copying firm. ITS, Room 246, 1919 M Street, N.W., Washington, D.C. 20554. Also, one copy of each pleading must be delivered to the Tariff division, Room 518, 1919 M Street, N.W., Washington, D.C. 20554.

9. This is a non-restricted notice and comment proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. Sections 1.1202, 1.1203 and 1.1206(a).

10. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information or a writing

IV. ORDERING CLAUSES

12. IT IS ORDERED, pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. Sections 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, that the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

13. IT IS FURTHER ORDERED that National Exchange Carriers Association shall include a response to each item of information requested in Section II, supra, in its direct case, and that the material to be submitted on floppy disk format in response to information request (a), must be filed at the Tariff Division, Tariff Review Branch, Room 514, 1919 M Street, N.W., Washington, D.C. 20554.

14. IT IS FURTHER ORDERED that this Order is effective upon adoption.

FEDERAL COMMUNICATIONS COMMISSION



Cheryl A. Tritt
Chief, Common Carrier Bureau